

SPECIAL CIVIL APPLICATION NO. 9887 OF 1994

CORAM ; N N MATHUR, j.
(November 8, 1995)

Ms. Preeti Parmar, AGP for the State

ORAL ORDER

When the matter was called out in the first session, in view of an application filed by the petitioner giving reference to an earlier petition bearing Special Civil Application No.9885/94, on his request, the matter was kept back to be taken at 2.45 p.m. The Court waited for the petitioner-party-in-person. It is now 4.30 p.m. and as such I have no option but to proceed with the matter.

2. The petitioner has filed this Special Civil Application seeking direction to communicate the decision of respondent No.2 on his application dated 30.5.1994 and further direction to release his truck and muddamal after taking the deposit of Rs.2000/- on the spot if they believe the offence under section 41(2)(b) has been committed. He further seeks direction to allow to transport on the basis of the certificate of Sarpanch the goods of the affected persons which is going to be submerged in Narmada Dam and if the said certificate is not believed to be legal by the officers in non-forest area and if they believe that the offence has been committed, then they may be ordered not to detain the truck and goods on taking deposit of Rs.2000/-. The last direction sought is the Range Forest Officer be directed to release the petitioner's truck and muddamal after taking Rs.2000/- in cash as provided in section 41(2)(b) of the Act.

3. The say of the petitioner is that he brings the goods from the farmers-Khatedars whose properties are submerged in Narmada Dam for which he has also obtained permit and certificate from the Sarpanch. In spite of the fact that he has been carrying logs of teak wood under the certificate of the Panchayat officers for years, the respondents are creating obstructions by seizing his Truck bearing No.GTH 7272. They seized the truck on 31.7.93. on account of which he has suffered loss. He submitted that application dated 30.5.1994 for release of the said Truck but no reply has been given to him. It is also stated that he has deposited an amount of Rs.2000/- by Demand Draft, still his Truck has not been released.

4. A reply to the Special Civil Application has been filed by Mr R R Bhatia, Asstt. Conservator of Forest. He has submitted that on 1.7.1994, the petitioner was carrying logs of teak wood in Truck bearing No. GTH 7272 without any pass or permit. He produced forest pass No.344263 dated 5.4.1993, which was issued in the name of one Ramji Khumania and alleged that the petitioner has been carrying logs of teak wood by truck bearing No.GTH 7272 without any pass or permit. The petitioner was detained and taken to Naswadi Range Office for further investigation. It is also brought to the notice that the petitioner preferred a Special Civil Application No.9885/94 challenging the detention of his aforesaid truck by the forest department and this Court by order dated 4.2.1995 rejected this Special Civil Application. This material fact has been suppressed by the petitioner. It is also pointed out that the Dy.Conservator of Forest, Chhotaudpur, by order dated 8.9.1994 has ordered confiscation of the petitioner's Truck bearing No.GTH 7272 for carrying stolen logs of teak wood on 1.7.1994 without any pass or permit. The petitioner preferred appeal against the said order to the Court of District Judge, Vadodara under section 61(D) of Indian Forest Act, 1927. The fact with respect to depositing of Rs.2000/- has been denied. It is also stated that in view of the nefarious activities of the petitioner and the fact that he is habitually indulging theft of the forest rules has been prosecuted several times and his name has been put into blacklist by the Home Department of the Gujarat State vide order dated 17.8.1988. It is also pointed out that the petitioner is in the habit of filing false petitions in this Court. This Court has also imposed a cost of Rs.1000/- while rejecting Misc.Civil Application No.1655/93 and in an identical order, a cost of Rs.2000/- was imposed in Misc.Civil Application No.4665/93. A translation of the standing order dated 30.3.1994 has also been placed on record, in which it is noticed that the goods of forest theft are being transported along with the debris of old house at the place of new residential house of the persons whose houses have submerged in Narmada Dam. With a view to prevent such illegal activities, it is decided that only the affected person can use the goods of the concerned affected person which may be transported from the area to be submerged in Narmada Dam.

5. In order to controvert the allegations made in the reply on 10.10.1995, the petitioner sought time to file rejoinder. As such the matter was adjourned to 18.10.1995. It was again adjourned to 8.11.1995. In spite of opportunity given, the petitioner has not chosen to file rejoinder and as such the case of the respondent has not rebutted by the petitioner. Today, he has filed an application stating that the matter pertaining to Special Civil Application No.9885/94 is different from the present Special Civil Application i.e. Special Civil Application No.9887/95. In order to verify the fact, the matter was kept at 2.45 p.m. Special Civil Application No.9885/94 was

summoned and the matter was kept at 2.45 p.m. The petitioner did not appear at 2.45 p.m.

6. I have gone through Special Civil Application No.9885/94.

In the said Application, the grievance made by the petitioner was with respect to the seizure of the Truck bearing registration No.GTH 7272 and further with respect to the obstruction created by the department for carrying the logs of teal wood. The respondents took the stand that the petitioner had suppressed the fact that the petitioner had availed alternative remedy by filing appeal against the order of confiscation.

7. In view of the fact that the petitioner has availed alternative remedy, the said Special Civil Application was rejected by order dated 4.2.1995. The petitioner was given opportunity to raise all the grounds as to the legality of the order as was raised in the said petition. The present Special Civil Application has been filed concealing the fact of filing of the Special Civil Application No.9885/94. The petitioner has not said a word in the present Application with respect to filing of the appeal and progress thereof. Things would have been different if the challenge in the present Special Civil Application was the decision taken in the appeal. Thus, the petitioner is guilty of concealing the material fact. Not only this, but even after the fact of earlier Application being pointed out to the petitioner, today, by filing an application, it is asserted that the earlier Special Civil Application i.e. 9885/94 is different from the present petition. This statement is wrong as I have already stated. A deliberate false statement has been made in this regard as is evident from the aforesaid discussion.

8. The following allegations made in the reply to the Special Civil Application have not been refuted by the petitioner inspite of sufficient opportunity given:

- (1) That the petitioner is in the habit of indulging in theft of forest wood for which he has been prosecuted several times and by order of the Home Department of Gujarat State dated 17.8.1988 his name has been put in black list;
- (2) That the petitioner is in the habit of filing false, frivolous and vexatious petitions in this Court and cost of Rs.1,000/- was imposed on the petitioner in Misc.Civil Application No.1655/93 in Special Civil Application No.5459/93 and a cost of Rs.2000/- was imposed while dismissing Misc.Cri.Application No.4645/93. The petitioner had made false statement that he paid Rs.2000/- by Demand Draft;

(3) That the petitioner was found carrying logs of teak wood in Truck bearing registration No.GTH 7272 without pass or permit and on demanding necessary pass or permit, the petitioner produced forest pass No.344263 dated 5.4.1993 which was in the name of Shri Ramji Khumania.

From the aforesaid, it is abundantly clear that the petitioner is misusing the process of this Court and thus, this Special Civil Application not only deserves to be dismissed but the petitioner is required to be saddled with heavy cost.

9. Before parting with, I am to state that the averments made in this petition are vague. However, as the petitioner is appearing in party-in-person, I tried to ascertain the real grievance and the stand of the petitioner. Since everything was quite confusing and not very clear, I asked him if he needs help from the Legal Aid Cell of the High Court by providing a Lawyer, which was not only refused by him but he asserted that he is financially sound as he is earning from the business of logs of teak wood, more than a lakh of rupees per year. He further stated that he does not want the help of the lawyers as they are not competent to understand and properly deal with or plead his case and as such he pleads his case in all Courts.

10. In the case of MITHLESHKUMAR SINHA AV. RETURNING OFFICER, reported in AIR 1993 SC 20 wherein the petition was filed and argued by the petitioner in person, the Apex Court found the averments in the petition prolix, vague and the contents of the petition irrelevant and frivolous. The Court disapproved the manner in which the petitioner filed frivolous petition and observed that such petition take considerable time of the Court which can be more gainfully utilised in hearing of the pending serious matters. The Supreme Court, giving reference to the case of CHARAN LAL SAHU v. GIANI ZAIL SINGH, reported in AIR 1984 SC 309, a petition filed in a similar situation a decade back, observed thus:

"We are constrained to take the view that some stringent measures like mandatory requirement of security deposit of reasonable amount for cost for entertaining the election petition is needed to provide some check."

It is of course true that it was in a election matter, nevertheless, the Court disapproved filing of such frivolous petition.

11. In view of the aforesaid, this Special Civil Application is dismissed with cost. In view of the conduct of the petitioner, the cost is assessed as Rs.20,000/-. The petitioner is directed to deposit the cost of Rs.20,000/- within a period of two months from today. If this amount is not deposited within

two months, the Conservator of Forest, Vadodara-respondent No.2 will proceed with the recovery of the amount in accordance with law. He will carry out the directions of this Court for the recovery of the amount of cost within a period of one month thereafter from the date of non-compliance of the first direction given. If nothing is heard in the matter for three months, the Registry will place this matter before the appropriate Bench for taking appropriate action for non-compliance of the directions of this Court. Notice discharged.

Date: 8.11.1995

(N N MATHUR, J.)